IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

WP(C).No. 24866 of 2007(I)

PETITIONER:

K.K.GOPAN,
KADUVANKASSERRY HOUSE, PALLIPORT P.O.

BY ADV. SRI.O.D.SIVADAS

RESPONDENTS:

---

1. THE MANAGING DIRECTOR,
KERALA WATER AUTHORITY, THIRUVANANTHAPURAM.

2. THE SUPERINTENDING ENGINEER,
D.H.CIRCLE, KERALA WATER AUTHORITY, ERNAKULAM.

3. THE ASSISTANT EXECUTIVE ENGINEER,
W.S. SUB DIVISION, NORTH PARUR,
ERNAKULAM DISTRICT.

BY ADV. SRI. M. DINESH, KWA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC,J.

W.P (C) No. 24866 of 2007

Dated this the 11th day of September, 2007

J U D G M E N T

The prayer in this writ petition is to quash Exhibit-P4 and to direct the respondents to provide water connection to the present residential premises (No.VI/424C) of the petitioner without delay. It is the admitted fact that the petitioner had made an application for water connection to his residential premises in Building No.VI/399A of Pallipuram village and that the application was registered with Sl. No.704 dated 18.11.1996. Subsequently petitioner disposed of that property and has shifted his residence to the newly acquired premises (House No.VI/424C). Present the request of the petitioner is that maintaining his seniority in the waiting list of applicants in respect of his earlier premises, he should be provided water connection to his new premises. For this purpose, he is relying on Exhibit P5 Judgment of this Court in W.P.(C) 32794/2006.

2. According to the Learned Counsel W.P (C) No.32794/2006 was disposed of by issuing a direction as sought for in this writ petition. Learned Counsel for the respondents on the other hand would submit that there is a long waiting list of

applicants and if the petitioner's request is to be conceded they will have to overlook the seniority of the applicants.

3. Learned Counsel points out that complaining of disobedience with Exhibit-P5 judgment the petitioner in Exhibit-P5 had filed Contempt of Court Case and under compelling circumstances, they had provided water connection and the matter was thus settled. Therefore they did not file an appeal also. However, the Learned Counsel pleads that in this case the request cannot be accepted.

4. If the respondents are maintaining a seniority list based on the priority of applications, acceptance of the request of the petitioner would unsettle the same. If the petitioner had pursued his application with reference to the application that he had made in 1996 probably he would have got a connection by now. However, now there is a change of premises, in terms of the rules, he should make a fresh application. In such circumstance, there is no justification for the petitioner to insist that the seniority of his application should be counted with reference to 1996.

5. In so far as Exhibit-P5 judgment is concerned, it is true that the respondents have not filed appeal and have complied with the judgment. The fact that they had not appealed against the judgment does not, by itself make out a case of constructive re judicata. The respondents may have had valid reasons for adopting such a course. See in this connection paragraph 17 of the judgment of the Apex Court in Union of India Vs. A.S.Gangoli & others [2007 (6) SCC 196]. In this case I am satisfied that respondents were justified in declining the request of the petitioner.

I do not find any merit in this writ petition and the writ petition stands dismissed. At this stage, Learned Counsel for the writ petitioner complains that the Water Authority is not even issuing an application form in order to enable the petitioner to an application in respect of his new premises. Learned Counsel for the respondents undertake that if the petitioner makes a request application form will be issued to the petitioner. I recorded the submission.

(ANTONY DOMINIC, JUDGE)

ma

K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007